

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 170 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 -No

MOTI LAMINATES P.LTD

Versus

UNION OF INDIA

Appearance:

MR KAMAL B TRIVEDI FOR MS TRIVEDI AND MR GUPTA
for Petitioners
MR JD AJMERA for Respondent No. 1

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 17/01/98

ORAL JUDGEMENT (C.K.Thakkar, J.)

This petition is filed by the petitioners for an appropriate writ, direction or order directing the respondent authorities to refund an amount of Rs.64,81,826.56 together with interest @ 18% per annum

accrued thereon. Rule was issued and after hearing the parties, further orders were passed. Today, the matter is called out for final hearing.

2. In our opinion, the point is concluded by a decision of Division Bench of this Court in Special Civil Application No.959 of 1990 and allied the matters, decided on February 17, 1995. Almost in similar circumstances, contentions were raised and the Division Bench considering them in the light of relevant provisions of law as also leading decisions on the point, held that the action taken by the authorities in not refunding the amount could not be said to be illegal, ultra vires or contrary to law. In paragraph 31 of the judgment, the Division Bench observed:-

"In the result, all the petitions are rejected.

Petitioners of Special Civil Application No.959/90 are directed to restore the amount of Rs.1,36,84,418.65 ps. (Rupees one crore thirty six lakhs eighty four thousand four hundred and eighteen and paise sixty five only) with 18% interest from the date of receipt till the amount is paid, within one month from today, i.e. on or before March 20, 1995.

The petitioners of special civil application No.960/1990 are directed to restore the amount of Rs.60,34,350.65 ps. (Rupees sixty lakhs thirty four thousand three hundred and fifty and paise sixty five only) with 18% interest from the date of receipt till the amount is paid, within one month from today, i.e. on or before March 20, 1995.

Petitioners of special civil application No.965/90 are directed to restore the amount of Rs.83,49,099.65 ps. (Rupees eighty three lakhs forty nine thousand ninety nine and paise sixty five) with 18% interest from the date of receipt till the amount is paid, within one month from today, i.e. on or before March 20, 1995.

Petitioners of special civil application No.112 of 1990 are directed to restore the amount of Rs.95,30,104.24 ps. (Rupees ninety five lakhs thirty thousand one hundred and four and paise twenty four only) with 18% interest from the date of receipt till the amount is paid, within one month from today, i.e. on or before March 20, 1995.

The Department will be at liberty to take all necessary actions as may be permissible under law to protect the interests of the Revenue and to see that the amounts are recovered. The Department will also be at liberty to enforce the undertakings furnished to this Court by the petitioners in each of the petitions. Subject to the aforesaid observation and directions, rule discharged with costs in each petition. Interim relief granted earlier stands vacated in each petition."

3. In our view, since the point is concluded by the Division Bench of this Court, the present petition also deserves to be dismissed and is accordingly dismissed. Consequential direction also must be issued. The learned counsel for the petitioners states that though the petitioners have claimed refund of an amount of Rs.64,81,826.56, after deducting some amount as per the calculation of the Department, refund to the extent of Rs.64,22,756.00 was made. Accordingly, it is directed that the petitioners should restore the said amount to the Department alongwith interest @ 18% per annum. Such payment should be made within one month from today. Petition is, accordingly, dismissed. Rule discharged. No order as to costs. Liberty to apply in case of difficulty.

Sd/-
(C.K.Thakkar,J.)

Sd/-
R.P.Dholakia,J.)
17-01-1998
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